IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6605 of 2007(A)

PETITIONER

1. SUNIL KUMAR, AGED 37 YEARS,
S/O C.P.APPU, KOLAYIL HOUSE,
ELATHOOR AMSOM, CALICUT.

2. V.VASUDEVAN, AGED 43 YEARS,
S/O MADHAVAN NAIR, "MAYOOGAM",
VETTIMUNDA HOUSE, KURUVATTUR,
POLUR DESOM, CALICUT.

3. ABDULLA KOYA K.T., AGED 46 YEARS,
S/O MUHAMMED, KOYANTE THODUKAYIL,
PATTARTHODI, PAYYANAKKAL, PANNIANKARA
AMSOM AND DESOM, CALICUT.

4. P.V.MUJEEB, AGED 32 YEARS,
S/O MOIDEEN KOYA, MELEKUNI PARAMBA,
PANNIANKARA AMSOM AND DESOM, CALICUT.

BY ADV. SRI.MANJERI SUNDER RAJ
SMT.SUSAN JACOB
SRI.MANJERI SUBIN SUNDER RAJ

RESPONDENTS:

1. STATE OF KERALA, REP. BY
STATION HOUSE OFFICER, TOWN POLICE STATION,
KOZHIKODE. CRIME 221/2007.

2. THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. JAI GEORGE, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6605 of 2007

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Dated this the 31st day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 4. They face allegations in a crime registered under Sections 353 and 427 read with 34 IPC. The crux of the allegations against the petitioners is that they deterred the de facto complainant-a Police official from Tamil Nadu who had come to Calicut to effect the arrest of the 1st petitioner. He had allegedly come to arrest the 1st petitioner along with Police men in uniform deputed from the local Police Station. It is alleged that the petitioners deferred him from the performance of the official duty of the Police and also caused damage to the vehicle in which the de facto complainant had reached the scene of the crime. Investigation is in progress. The petitioners apprehend imminent arrest.

2.The learned counsel for the petitioners submits that the petitioners are innocent. There was an attempt to abduct the 1st petitioner by a group of persons. Then the local persons had raised objections.It is in this manner that the incident in question had happened. The petitioners were never aware that any one of those was an official of the Police Department.The allegations are totally false.The petitioner may in these circumstances be granted anticipatory bail ,

it is prayed.

3. The learned Public Prosecutor opposes the application. There are no circumstances which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course. The learned Public Prosecutor has taken me through the case diary which clearly suggests that the de facto complainant was accompanied by Police officials in uniform from the local police station.

4. I find merit in the opposition by the learned Public Prosecutor and I am satisfied that this is an eminently fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE